

Indiana Department of Education

Division of Special Education

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 1838.01  
 COMPLAINT INVESTIGATOR: Brian Simkins  
 DATE OF COMPLAINT: November 30, 2001  
 DATE OF REPORT: December 26, 2001  
 REQUEST FOR RECONSIDERATION: no  
 DATE OF CLOSURE: January 28, 2002

**COMPLAINT ISSUES:**

Whether the Clinton Central School Corporation and the Boone-Clinton-North West Hendricks Joint Services violated:

511 IAC 7-30-3(x) by failing to implement the hearing officer's orders in hearing #1229.01, specifically:

- a. failing to assist the family in finding funding for short-term intensive inpatient treatment; and
- b. failing to provide a day treatment program with which the parents agree.

**FINDINGS OF FACT:**

1. The Student is seventeen years old and attends a local high school (the "School"). He is eligible for special education and related services as a student with an emotional disability.
2. On August 10, 2001, an independent hearing officer (IHO) issued a written decision in a due process hearing involving the Student. Order #1 orders the case conference committee to modify the Student's IEP in conformity with the IHO's decision. Among other things, the IHO's decision contained the following Conclusions of Law:
 

". . . 12) The weight of the evidence supports the need for short-term intensive inpatient residential treatment. This treatment would be parents' responsibility; however, the CCC should make every effort to assist the family in finding funding for treatment, including assistance in obtaining insurance coverage.

. . . 14) After the inpatient treatment, the student should be placed in a day treatment program for school year 2001-02, paid for by [the school], and located through the efforts of the CCC, with advice as needed from an educational specialist Stephanie Peabody of Dr. Hudson's office. The program must address the student's social and emotional needs. The exact choice of day program, whether it be in Lafayette or other location, must be one with which the parents agree. The school district should provide daily transportation for the day treatment program."

The complainants assert that the school has failed to comply with these two requirements of the IHO's written decision.
3. On August 22, 2001, the local director of special education (director) contacted the complainant about their current insurance coverage. The complainant advised that she had not been able to find

an intensive inpatient program that accepted their insurance. That same day, the director contacted the local United Way agency to find out about the availability of financial assistance to cover the student's intensive inpatient hospitalization. United Way staff indicated that, although the family might qualify for other types of assistance, there were no resources available to cover direct services such as an intensive inpatient program. On August 23, 2001, the director contacted three hospitals in Indianapolis regarding their intensive inpatient programs and whether any participated in the complainant's insurance plan. On August 24, 2001, the director contacted the complainant and advised of his conversation with United Way staff. The director also provided the complainant with information on how to apply for Medicaid for the Student as a possible means of funding the intensive inpatient services. However, neither the Student nor the complainants qualified for Medicaid benefits. To date, the parents have not placed the Student in an intensive inpatient setting.

4. The School began the process of attempting to locate a day treatment program on August 13, 2001, when school staff contacted the parent about providing consent for the School to release information to potential day treatment programs.
5. Between September 5 and October 11, 2001, the school contacted five facilities, both locally and in neighboring communities, about a day treatment program for the Student. Four of the five facilities indicated that they could not or did not offer a day treatment program that would be appropriate for the Student. Only one of the facilities, located in Indianapolis, agreed to provide day treatment services to the Student. During this time, the complainant contacted ten facilities, including four of the ones contacted by the school. The complainant indicates that none of the facilities could provide appropriate day treatment services for the Student for various reasons including: inability to meet the Student's needs, no day treatment program available, and no long-term program available, no program for adolescents.
6. The CCC has discussed the one facility that has agreed to accept the Student into its day treatment program. The School is willing to provide daily transportation to and from Indianapolis. However, the complainants do not agree that this facility or its services are appropriate and have declined to provide consent for placement. To date, the School and the complainants have been unable to reach agreement on a day treatment program for the Student.
7. Due to the impasse, the complainants request that the Student be placed in a residential treatment program at the School's expense. The complainants have not proposed a day treatment program for the School's consideration.

## CONCLUSIONS:

- 1a. Findings of Fact #2 and #3 indicate that, in response to the hearing officer's decision that the CCC should make an effort to assist the complainants in securing financial assistance for intensive inpatient treatment, School personnel contacted United Way and provided the complainant with information on applying for Medicaid. The School took the required action within 30 days of the hearing officer's written decision. Therefore, the School complied with the hearing officer's orders, and no violation of 511 IAC 7-30-3(x) is found with regard to this issue.
- 1b. Findings of Fact #4, #5, #6, and #7 reflect that the School and the complainants contacted at least ten facilities, both locally and in neighboring communities, in an attempt to find a facility that would provide a day treatment program for the Student. Only one of the facilities was willing to provide the required services. The complainants have declined to consent to the School's proposed placement.

The complainants have offered no alternative day treatment program for the School's consideration. As the School has been unable to find an day treatment program agreeable to the complainants as required by the hearing officer's written decision, a violation of 511 IAC 7-30-3(x) has occurred in this regard. However, the Division is without authority to determine the Student's placement as requested by the complainants. Resolution of the parties' disagreement about the placement proposed by the School is through mediation and/or a due process hearing.

**The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The Clinton Central School Corporation and the Boone-Clinton-North West Hendricks Joint Services shall:

1. Convene the case conference committee no later than January 25, 2002, to see if agreement can be reached on an appropriate placement for the Student. A copy of the CCC Report/IEP shall be submitted to the Division no later than January 28, 2002.
2. Take the following action if School and the complainants are unable to reach agreement at the CCC meeting:
  - a. Prior to the conclusion of the meeting, determine if the complainants are willing to engage in mediation to resolve the disagreement. If the complainants are willing to mediate, submit a signed *Request for Mediation* to the Division no later than January 28, 2002. Upon completion of the mediation session, the School shall submit a copy of any agreement reached as a result of the mediation. The written agreement shall be submitted to the Division no later than February 22, 2002. If no agreement is reached, the School shall advise the Division in writing by February 22, 2002, and shall request the appointment of an independent hearing officer.
  - b. If the complainants decline to mediate the disagreement, submit a request for the appointment of an independent hearing officer to the Division no later than January 28, 2002.

DATE REPORT COMPLETED: December 26, 2001